

01-27-2005

Docket No. 30/MEG/B603

RECORDATION
TRAD

102927245

Mail Stop Assignment Recordation Services
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068

Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof:

1. Name of conveying party(ies): 1) U.S. Bank National Association, a national banking association 2) Koala Corporation, a Colorado Corporation <input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other: <input type="checkbox"/> Exists Under Laws of Additional name(s) of conveying party(ies) attached: No		2. Name and address of receiving party(ies): Name: Bobrick Washrom Equipment, Inc. Street Address: 11611 Hart Street, North Hollywood, California 91605 <input type="checkbox"/> Individual(s) citizenship <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Other: <input checked="" type="checkbox"/> Exists Under Laws of the State of California If assignee is not domiciled in the United States, a domestic representative designation is attached: (Designation must be a separate document from Assignment). Additional name(s) & address(es) attached?	
3. Name of conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input checked="" type="checkbox"/> Other: Confirmatory Trademark Assignment and Acknowledgement Execution Date: 1) November 18, 2004 2) December 3, 2004			
4. A. Trademark Application No.(s) 75/926,402; 75/926,418; 75/983,179; and 78/076,315		4. B. Trademark Registration No.(s) 2,097,230; 2,097,223; 1,807,572; 2,264,106; 1,867,024; 1,845,631; 1,845,630; 1,522,648; 1,846,761; 2,260,371; 2,565,924; 2,807,618; 2,433,269; and, 2,574,319 Additional numbers attached? No	
5. Please return the recorded document and address all correspondence to: CHRISTIE, PARKER & HALE, LLP P.O. Box 7068 Pasadena, CA 91109-7068 Attention: Mark Garscia		6. Total number of applications or registrations involved 18	
10. <input checked="" type="checkbox"/> Explanatory letter is enclosed.		7. <input checked="" type="checkbox"/> Total fee enclosed (37 CFR 3.41): \$465 8. <input checked="" type="checkbox"/> Any deficiency or overpayment of fees should be charged or credited to Deposit Account No. 03-1728, except for payment of issue fees required under 37 CFR § 1.18. Please show our docket number with any credit or charge to our Deposit Account.	
9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Date: January 19, 2005 I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on <u>January 19, 2005</u> <u>Christie Slonak</u> (Date of Deposit) By <u>Mark Garscia</u> Name: Mark Garscia 626/795-9900 Total number of pages including cover sheet, attachments, and document: 16			

CONFIRMATORY TRADEMARK ASSIGNMENT AND ACKNOWLEDGEMENT

This Confirmatory Assignment (the "Assignment") is made by and between U.S. Bank National Association, a national banking association, for itself and as agent for certain other lenders and having a place of business at 800 Nicollet Mall, Minneapolis, Minnesota, 55402 ("U.S. Bank") and Bobrick Washroom Equipment, Inc., a corporation organized and existing under the laws of the state of California, having a place of business at 11611 Hart Street, North Hollywood, California 91605 ("Bobrick") and is acknowledged by Koala Corporation, a Colorado Corporation ("Koala").

WHEREAS, U.S. Bank and Bobrick are parties to an Assets Acquisition Agreement dated as of May 6, 2004 (the "Acquisition Agreement");

WHEREAS, U.S. Bank is the senior secured creditor of Koala, pursuant to that certain Amended and Restated Credit Agreement, dated as of September 26, 2001 (as thereafter amended, the "Credit Agreement").

WHEREAS, the obligations of Koala to U.S. Bank are secured by a duly perfected, first priority security interest in Koala's tangible and intangible assets as set forth in the Credit Agreement, including the trademarks and applications identified on Exhibit A (collectively the "Marks").

WHEREAS, prior to April 20, 2004, Koala was in default to U.S. Bank under the terms of the Credit Agreement.

WHEREAS, on April 20, 2004, U.S. Bank gave notice to Koala and all other appropriate parties entitled to notice by law or requesting notice of its intent to foreclose upon certain of Koala's tangible and intangible assets, including the Marks, in which it has a security interest at a foreclosure sale to be conducted on or after April 30, 2004 pursuant to the Credit Agreement and Sections 4-9-610 and 4-9-617 of the Colorado Revised Statutes (the "Foreclosure Sale").

WHEREAS, U.S. Bank, in a trademark assignment dated May 6, 2004, sold, assigned and transferred to Bobrick all of U.S. Bank's rights, title and interest in and to the Marks acquired via the Foreclosure Sale, and any applications and registrations therefor, including the application and registrations identified on the attached Exhibit A, together with that part of the good will of the business associated with the use of and symbolized by the Marks, to be held and enjoyed by Bobrick as fully and entirely as said interest could have been held and enjoyed by U.S. Bank if this sale, assignment, and transfer had not been made, all on the terms and subject to the limitations set forth in the Acquisition Agreement.

WHEREAS, Koala, in a Surrender Agreement dated May 7, 2004 (a copy attached hereto as Exhibit B), delivered to U.S. Bank control and possession of the trademarks and applications identified on Exhibit A and the goodwill associated therewith, and agreed to the sale of said trademarks, applications and goodwill in foreclosure and enforcement of U.S. Bank's security interests.

WHEREAS, Bobrick is desirous of confirming the acquisition of the above-identified Marks and any applications and registrations therefor, including the application and registrations identified on the attached Exhibit A.

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt in full of which is hereby acknowledged, the parties agree as follows:

1. U.S. Bank hereby confirms the sale, assignment and transfer to Bobrick of all of U.S. Bank's rights, title and interest in and to the Marks acquired via the Foreclosure Sale, and any applications and registrations therefor, including the application and registrations identified on the attached Exhibit A, together with that part of the good will of the business associated with the use of and symbolized by the Marks, to be held and enjoyed by Bobrick as fully and entirely as said interest could have been held and enjoyed by U.S. Bank if this sale, assignment, and transfer had not been made, all on the terms and subject to the limitations set forth in the Acquisition Agreement.

2. U.S. Bank further confirms the sale, assignment and transfer to Bobrick of all right, title and interests, it may have, in and to any and all causes of action and rights of recovery for past infringement of the Marks.

3. U.S. Bank and Bobrick agree that this confirmatory Assignment and Acknowledgement conveys to Bobrick no warranties or rights in addition to those expressly set forth in the Acquisition Agreement.

4. The terms, covenants and provisions of this Confirmatory Assignment and Acknowledgement shall inure to the benefit of Bobrick, its successors, assigns, and/or legal representatives, and shall be binding upon U.S. Bank, its successors, assigns and/or other legal representatives.

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Los Angeles

} ss.

On

4/12/05

Date

before me,

Tammi Morgado Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

Douglas F. Morton, OF VICE PRESIDENT

Name(s) of Signer(s)

☒ personally known to me☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Confirmatory Trademark Assignment and Acknowledgement

Document Date:

4/12/05

Number of Pages:

15

Signer(s) Other Than Named Above:

Daniel J. Falstad, Jeffrey Vigil**Capacity(ies) Claimed by Signer**

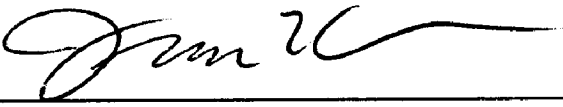
Signer's Name:

Douglas F. Morton☒ Individual☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Attorney-in-Fact☐ Trustee☐ Guardian or Conservator☐ Other: _____

Signer Is Representing:

Bobrick Washroom Equipment, Inc.RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

KOALA CORPORATION

By 
Its: Vice President

State of Colorado)
) ss.
County of Arapahoe)

On this 3rd day of Dec, 2004, before me appeared Jeffery Vigil, the person who signed this instrument, who acknowledged that he or she signed it as a free act on behalf of the identified corporation with authority to do so.


Notary Public




MEG/cks




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CKS PAS592977.1-* -11/10/04 3:27 PM



My Commission Expires
June 10, 2006



REGISTRATIONS

Mark	App/Reg No.	Goods/Services	Status
ACTIVITIES UNLIMITED	2,097,230	Action skill games, game tables and wall mounted action skill games	Registered Renewal Due: 09/16/07
	2,097,223	Action skill games, game tables and wall mounted action skill games	Registered Renewal Due: 09/16/07
	1,807,572	Children ' s theater seats	Registered Renewal Due: 11/30/13
FOR HAPPY FACES IN PUBLIC PLACES	2,264,106	Infant care accessories and devices, namely, diaper changing stations, wall-mounted child seats and combination infant seat/cradle	Registered Section 8 & 15 Due: 07/27/05 Renewal Due: 07/27/09
KOALA BEAR KARE	1,867,024	Infant care accessories; namely, diaper changing stations, wall-mounted child seats and combination infant seat/cradle	Registered Renewal Due: 12/13/04
 KOALA BEAR KARE & Design (Baby in cradle, lined for color blue)	1,845,631	Combination infant seat/cradle	Registered Renewal Due: 07/19/04

Mark	App/Reg No.	Goods/Services	Status
 <p>KOALA BEAR KARE & Design (Baby in seat, lined for color blue)</p>	1,845,630	Wall-mounted child seat	Registered Renewal Due: 07/19/04
 <p>KOALA BEAR KARE & Design (Mother and baby, lined for color blue)</p>	1,522,648	Wall mounted diaper changing station with fold-out infant support shelf	Registered Renewal Due: 01/31/09
 <p>KOALA BEAR KARE & Design (Baby in diaper, lined for color blue)</p>	1,846,761	Wall mounted diaper changing station with fold-out infant support shelf	Registered Renewal Due: 07/26/04
TURNING PLAY INTO PROFIT!	2,260,371	Toys and playthings, namely, children's wall mounted multiple activity toys, children's multiple activity floor mats, manipulative games, toy building blocks, and game tables.	Registered Section 8 & 15 Due: 07/13/05 Renewal Due: 07/13/09

Mark	App/Reg No.	Goods/Services	Status
LITTLE BEAR	2,565,924	Toys and playthings, namely, children's wall mounted multiple activity toys, children's multiple activity floor mats, manipulative games, toy building blocks, and game tables.	Registered Section 8 & 15 Due: 04/30/08 Renewal Due: 04/30/12
KOALA	2,807,618	A house mark for infant care accessories, namely, diaper changing stations, wall-mounted child seats, infant seats, infant cradles, highchairs, children's theater seats and booster chairs. A house mark for toys and playthings, namely, children's wall mounted multiple activity toys, children's multiple activity floor mats, manipulative games, toy building blocks, and game tables; playground equipment; waterpark playground equipment; and themed modular indoor and outdoor soft playground equipment and play areas;	Registered Section 8 & 15 Due: 01/27/09 Renewal Due; 01/27/2014
KOALA	75/926,402	Diaper bags, carry-on bags, tote bags, travel bags, baby backpacks, baby carriers worn on the body, child safety restraint belts and child safety restraint harnesses; Disposable and nondisposable diaper changing pads, mats, liners and covers; Cloth diapers;	Pending Office Action has issued and Response has been filed. Application should proceed to publication and allowance shortly.

Mark	App/Reg No.	Goods/Services	Status
 <p>KOALA BEAR KARE & Design (Updated Mother & Baby)</p>	2,433,269	<p>A house mark for infant care accessories, namely, diaper changing stations, wall-mounted child seats, infant seats, infant cradles, highchairs, children's theater seats and booster chairs.</p> <p>A house mark for toys and playthings, namely, children's wall mounted multiple activity toys, children's multiple activity floor mats, manipulative games, toy building blocks, and game tables; playground equipment; waterpark playground equipment; and themed modular indoor and outdoor soft playground equipment and play areas;</p>	<p>Registered</p> <p>Section 8 & 15 Due: 03/06/07</p> <p>Renewal Due: 03/06/11</p>
 <p>KOALA BEAR KARE & Design (Updated Mother & Baby)</p>	75/926,418	<p>Diaper bags, carry-on bags, tote bags, travel bags, baby backpacks, and baby carriers worn on the body;</p> <p>Bedding and linens, namely, bumpers, sheets, pillowcases, blankets, comforters, curtains, dust ruffles, mattress covers, mattress pads, quilts, towels, bath mats, and wash cloths; and nondisposable diaper changing pads, mats, liners and covers;</p> <p>Clothing, namely, shoes, boots, sneakers, socks, hats, t-shirts, dresses, pants, shirts, sweaters, sweat shirts, sweat suits, pajamas, robes, slippers, raincoats, coats, jackets, underwear, bathing suits, masquerade costumes, baby layettes, cloth bibs, cloth diapers;</p>	<p>Pending</p> <p>Notice of Allowance issued 01/22/02. Proof of use or a extension of time due 07/22/04.</p>

Mark	App/Reg No.	Goods/Services	Status
 KOALA BEAR KARE & Design (Updated Mother & Baby)	75/983,179 Divisional of 75/926,418	Child safety restraint belts and child safety restraint harnesses; Disposable diaper changing pad, mats, liners and covers;	Registered Section 8 & 15 Due: 06/17/09 Renewal Due: 06/17/13
	2,574,319	Infant care accessories, namely, diaper changing stations, child seats, wall- mounted child seats, shopping cart mounted child seats, infant seats, infant cradles, highchairs, children's theater seats, booster chairs,	Registered Section 8 & 15 Due: 05/28/08 Renewal Due: 05/28/12
KOALIFIED	78/076,315	Promoting awareness and identifying public and private locations in which diaper changing stations, wall-mounted child seats, infant seat cradles, highchairs, booster chairs, children's theater seats, shopping cart-mounted child seats, disposable diaper changing pads, game tables, wall-mounted multiple activity toys, multiple activity floor mats, manipulative games, toy building blocks, playground equipment, waterpark playground equipment, and themed soft playground equipment is available and accessible.	Pending Notice of Allowance issued 12/24/02. Proof of use or extension due 06/24/04.

SURRENDER AGREEMENT

This Agreement, is made effective this 7th day of May, 2004, by and between KOALA CORPORATION, a Colorado corporation (the "Borrower") and U.S. BANK NATIONAL ASSOCIATION, a national banking association (the "Lender" or the "Bank").

RECITALS

FIRST: The Lender has extended credit to Koala pursuant to an Amended and Restated Revolving Credit, Term Loan and Security Agreement dated as of September 26, 2001 (as amended the "Credit Agreement").

SECOND: The obligations owed to the Lender are secured by a security interest in the assets set forth in the Credit Agreement which include a security interest in, among other things, all of Borrower's accounts, machinery and equipment, tooling, inventory, patents trademarks and tradenames, other intellectual property, trade secrets, supplies, prepaid expenses, deposits, open customer purchase orders, open suppliers purchase orders, distribution contracts, other contracts, telephone and fax numbers, mail and other communication, business records, sales and promotional activities and other intangibles and goodwill (the "Collateral"). The security interests in favor of the Bank in the Collateral were perfected by the filing of financing statements with the Colorado Secretary of State.

THIRD: The Borrower has defaulted under the terms of the Credit Agreement. As of the date hereof, Borrower's Indebtedness under the Credit Agreement is approximately \$30,000,000 plus accrued interest and costs and expenses allowed pursuant to the terms of the Credit Agreement.

FOURTH: The Borrower has reached an agreement with Bobrick Washroom Equipment, Inc. to acquire certain assets of the Convenience and Activities Division of the Borrower which comprise part of the Collateral (the "Convenience Collateral").

FIFTH: The Borrower has agreed to immediately deliver control or possession of all of the Convenience Collateral or authority to transfer the same to the extent permitted by applicable law to the Bank for the purpose of disposition of certain of the Collateral in accordance with the provisions of Colorado Statute 4-9-610 to Bobrick Washroom Equipment, Inc., and disposition of the remaining Convenience Collateral in accordance with the Uniform Commercial Code as in effect in the State of Minnesota.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party, the parties agree as follows:

1. The Borrower is obligated and indebted to the Bank as stated above. The Indebtedness is due and owing in full, without defense, offset or counterclaim, and is secured by a perfected first priority security interest in the Collateral.

2. The Borrower herewith delivers to the Bank control or possession of all of the Convenience Collateral and all records pertaining thereto for the purpose of permitting the Bank to immediately proceed with the enforcement and foreclosure of the Bank's security interest in the manner provided by law. This delivery of control or possession does not constitute a transfer in payment or satisfaction of the Indebtedness owed to the Bank, and all such Indebtedness remains outstanding and enforceable. Nothing herein shall be construed to be a release, satisfaction, discharge, or novation of the Indebtedness, only the disposition of the Collateral pursuant to § 4-9-610 will determine what portion of the Indebtedness is satisfied.

3. The Borrower hereby agrees that the Bank may proceed immediately upon delivery of the Convenience Collateral with the collection, sale or disposition of Convenience Collateral in foreclosure and enforcement of its security interests, and the Borrower hereby waives any and all notices of the sale or disposition of the Convenience Collateral to which the Borrower would otherwise be entitled. The Borrower agrees to cooperate with the Bank in the collection, sale or disposition of the Convenience Collateral, including, without limitation, the execution and delivery of any documents or instruments of transfer that the Bank may request the Borrower to execute.

4. The Bank reserves all rights it may have against the Borrower or the property of the Borrower or any other property or person.

5. The Borrower by execution of this Agreement waives and renounces any and all rights to any notice to which the Borrower may be entitled pursuant to the provisions of Colorado Statutes 4-9-610 and 4-9-624 and agrees that the method and manner of any disposition of the Convenience Collateral is commercially reasonable, and as to any such disposition Borrower renounces all of its rights.

6. This Agreement is binding on the Borrower and its successors and assigns, and may be enforced by the Bank, and its successors and assigns. In accepting this Agreement the Bank does not waive or release any of its rights, remedies, claims or interests, nor does the Borrower waive any rights under Waiver and Amendment No. 9 to the Credit Agreement that is being executed concurrently herewith.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

KOALA CORPORATION.

By [Signature]
Print Name JAMES A. ZAZANSKY
Title PRESIDENT / COO

Borrower's Address:
7881 South Wheeling Court
Englewood CO 80112

U.S. BANK NATIONAL ASSOCIATION

By [Signature]
Print Name DANIEL J. FALSTAD
Title V.P.

Bank's Address:
800 Nicollet Mall
Minneapolis, Minnesota 55402

[Signature Page to Surrender Agreement]